

Message Text

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PAGE 01 CARACA 08864 080030Z
ACTION ARA-14

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R 072339Z SEP 77
FM AMEMBASSY CARACAS
TO USDOC WASHDC
INFO SECSTATE WASHDC 9146

UNCLAS CARACAS 8864

USDOC FOR OIM/GARNTZ

E.O. 11652: N/A
TAGS: BEXP, VE
SUBJECT: EXHIBITION FACILITY PROBLEM

(1) AS USDOC AWARE FROM VARIOUS TELEPHONE CONVERSATIONS AND PRESENTATION BY AMBASSADOR DURING HIS RECENT VISIT TO WASHINGTON, EMBASSY HAS PROBLEM WITH EXHIBITION FACILITY ARISING FROM INSISTENCE BY PRESIDENT OF BOARD OF UNIVERSIDAD METROPOLITANA, EUGENIO MENDOZA, THAT US GOVERNMENT RESPONSIBLE FOR INSTALLATION OF AIR CONDITIONING AND PROVISION OF CHAIRS FOR CARACAS EXHIBITION FACILITY.

(2) THE US GOVERNMENT, UNDER ARTICLE THREE OF THE CONTRACT BETWEEN THE EMBASSY AND THE UNIVERSITY, IS RESPONSIBLE FOR CONSTRUCTION OF THE STRUCTURE QUOTE AS WELL AS THE INTERIOR INSTALLATIONS, FIXTURES, VENTILATION SYSTEM, PARTITIONS AND EVERYTHING NECESSARY FOR THE NORMAL USE THEREOF AND IN ACCORDANCE WITH ITS PURPOSES END QUOTE. AMONG THE PURPOSES TO WHICH THE BUILDING WILL BE DEDICATED ARE NOT ONLY U.S. EXHIBITIONS BUT ALSO THE UNIVERSITY'S QUOTE GUADUATION CEREMONIES AND OTHER ACADEMIC AND PEDAGOGIC FUNCTIONS END QUOTE. MANY OF THESE FUNCTIONS WILL BE HELD DURING DAYLIGHT HOURS, WHILE EXHIBITIONS ARE BEING HELD FROM 1600 TO 2200 HOURS.

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 CARACA 08864 080030Z

(3) THE PROBLEM ARISES FROM EUGENIO MENDOZA'S INSISTENCE THAT THE TERMS OF THE CONTRACT ARE GOVERNED BY THE INTENTIONS OF THE PARTIES, IN ANY DISAGREEMENT ON THE INTERPRETATION OF THE CONTRACT. THUS, HE RELIES ON HIS LETTER OF 15 SEPTEMBER 1977 TO COMMERCIAL ATTACHE SWETT IN WHICH HE SPECIFICALLY MENTIONED THE POSSIBILITY OF SEATING 1200 PERSONS AND IN WHICH HE WENT ON TO DEFINE THE TWO PARTIES' RECIPROCAL OBLIGATIONS, WITH THE

EMBASSY RESPONSIBLE FOR THE INTERIOR EQUIPPING OF THE STRUCTURE INCLUDING FIXED INSTALLATIONS AND SPECIFICALLY QUOTE AIR CONDITIONING AND IN GENERAL EVERYTHING NECESSARY FOR THE NORMAL USE TO WHICH IT WILL BE DESTINED END QUOTE. MENDOZA THUS DISREGARDS BOTH THE FACT THAT AIR CONDITIONING WAS NEGOTIATED OUT OF THE CONTRACT WITH "VENTILATION SYSTEM" NEGOTIATED INTO THE CONTRACT; AND THE STATEMENT IN COMMERCIAL ATTACHE SWETT'S LETTER OF 1 SEPT 1976 THAT THE UNIVERSITY WOULD HAVE TO SUPPLY THE STAGE AND REMOVABLE SEATSM

(4) GIVEN THE IMPORTANCE OF SR. MENDOZA IN VENEZUELA AND FACT THAT HE OWNS THE EXHIBITION FACILITY, THE PROBLEM HAS SIGNIFICANT BROADER DIPLOMATIC ASPECTS, BEYOND THE STRICTLY LEGAL. EMBASSY HAS CONSULTED ON SEVERAL OCCASIONS WITH OUR LEGAL COUNSEL FOR THIS CONTRACT, FARID ANTAKLY, WHO ADVISES THAT EMBASSY IS ON FIRM LEGAL GROUND FOR BOTH THE AIR CONDITIONING AND THE CHAIRS PROBLEMS. HOWEVER, AT THE PRESENT, U.S. GOVERNMENT IS CLEARLY IN A BREACH OF CONTRACT IN NOT HAVING SUPPLIED OR INSTALLED A VENTILATION SYSTEM FOR THE BUILDING.

(5) ASIDE FROM THE CONTRACTUAL INTERPRETATION, THE EMBASSY IS CONCERNED, NOW THAT THE FACILITY HAS BEEN FINISHED AND THE FIRST EXHIBITION MOUNTED, THAT THESE ISSUES BE RESOLVED IN SUCH A WAY AS TO ENHANCE OUR ON-GOING RELATIONS WITH THE UNIVERSITY IN THE REMAINING YEARS OF THE CONTRACT. EMBASSY HAS RECEIVED A FURTHER LETTER FROM EUGENIO MENDOZA ADDRESSED TO UNCLASSIFIED

UNCLASSIFIED

PAGE 03 CARACA 08864 080030Z

AMBASSADOR VAKY AND DATED 1 SEPTEMBER 1977, WHICH WE QUOTE: IN VIEW OF THE DIFFICULT ECONOMIC SITUATION WHICH THE UNIVERSITY CONFRONTS, I EXPLAINED TO (DAS) W. DEAN MORAN, THE NECESSITY TO FINISH THE EQUIPPING OF THE AUDITORIUM WITH THE INSTALLATION OF AIR CONDITIONING AND PROVISION OF THE CHAIRS. I SINCERELY HOPE THAT UPON YOUR RETURN THIS PROBLEM MAY BE FAVORABLY RESOLVED. END QUOTE.

(6) EMBASSY UNDERSTAND THAT USDOC INTENDS TO SEND AIR CONDITIONING ENGINEER TO SURVEY THE FACILITY AND PROVIDE BETTER SPECIFIC ESTIMATE OF ALTERNATIVE COSTS OF A SATISFACTORY VENTILATION SYSTEM VERSUS AN AIR CONDITIONING SYSTEM. BASED ON THE OBVIOUS DISCOMFORT OF EXHIBITION AND STAFF IN THE FACILITY DURING DAYLIGHT HOURS, WE ANTICIPATE THAT AIR CONDITIONING WILL BE FOUND NECESSARY AND DESIRABLE. EMBASSY PLEASED AIR CONDITIONING ENGINEER WILL SOON BE HERE BECAUSE THE PROBLEM OF COOLING THE BUILDING MUST BE ADDRESSED URGENTLY. EMBASSY ALSO UNDERSTANDS THAT USDOC PREPARED TO PROCURE 800 OR 1000 CHAIRS FOR THE FACILITY, ARRANGE SHIPMENT AND MAKE A FINANCIAL CONTRIBUTION TO COVER 100 CHAIRS. THIS CONTRASTS WITH THE OFFER MADE BY THE UNIVERSITY'S ENGINEER TO SPLIT THE COSTS FOR 800 CHAIRS ON A 50-50 BASIS. CHAIRS WILL BE NEEDED IN CARACAS BY OCTOBER 22. IF CHAIRS WILL NOT BE IN

CARACAS BY OCT. 22, ABOUT \$1500 WILL BE NECESSARY TO RENT THEM
LOCALLY. PLEASE ADVISE.
FRECHETTE

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Message Attributes

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